



BILLING CODE 3290-F5

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Dispute No. WT/DS478]

WTO Dispute Settlement Proceeding Regarding Indonesia - Importation of Horticultural Products, Animals and Animal Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that on May 20, 2015, at the request of the United States, the World Trade Organization (WTO) has established a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* (“WTO Agreement”) concerning certain measures imposed by Indonesia on the importation of horticultural products, animals and animal products. That request may be found at www.wto.org, contained in a document designated as WT/DS478/9. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 31, 2015 to assure timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically at www.regulations.gov, docket number 2014-0010. If you are unable to provide submissions at www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

FOR FURTHER INFORMATION CONTACT: Arthur Tsao and Kate Hadley, Assistant General Counsels, Office of the United States Trade Representative, (202) 395-6987 and (202) 395-5949, respectively.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (“URAA”) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that, at the request of the United States, a dispute settlement panel has been established pursuant to the WTO Dispute Settlement Understanding (“DSU”). The panel will hold its meetings in Geneva, Switzerland.

Major Issues Raised by the United States

On March 18, 2015, the United States requested the establishment of a dispute settlement panel to examine Indonesia’s wide-ranging import restrictions on fruits and vegetables, animal products, and other agricultural products. These measures include a ban on poultry and certain meat products and Indonesia’s trade-restrictive import licensing regimes for horticultural products and animals and animal products.

Specifically, Indonesia: (a) imposes trade-restrictive import licensing regimes and related requirements on imports of horticultural products and of animals and animal products; (b) imposes prohibitions and restrictions on imports of such products; and (c) prohibits and restricts importation of such products when domestic production is deemed sufficient to fulfill domestic demand.

The legal instruments through which Indonesia imposes and administers these measures include but are not limited to the following instruments:

1. Regulation of the Ministry of Agriculture Number 86/Permentan/OT.140/8/2013 Concerning Import Recommendation of Horticulture Products (“MOA Regulation 86/2013”), which repeals and replaces Regulation of the Minister of Agriculture Number 47/Permentan/OT.140/4/2013 Concerning Recommendation on the Importation of Horticulture Products, which repealed and replaced Regulation of the Minister of Agriculture Number 60/Permentan/OT.140/9/2012;
2. Regulation of the Minister of Trade Number 16/M-DAG/PER/4/2013 Concerning Provisions on Horticulture Product Import (“MOT Regulation 16/2013”), which repeals and replaces Regulation of the Minister of Trade Number 30/M-DAG/PER/5/2012 Concerning the Provisions on Import of Horticultural Products and Regulation of the Minister of Trade Number 60/M-DAG/PER/9/2012 Regarding Second Amendment of Regulation of the Minister of Trade Number 30/M-DAG/PER/5/2012 Regarding Provisions on Import of Horticultural Products;
3. Regulation of the Ministry of Trade Number 47/M-DAG/PER/8/2013 Concerning

Amendment of Regulation of the Minister of Trade Number 16/M-DAG/PER/4/2013
Concerning Import Provision of Horticulture Product (“MOT Regulation 47/2013”);

4. Regulation of the Ministry of Agriculture Number 139/Permentan/PD.410/12/2014
 (“MOA Regulation 139/2014”) Regarding Importation of Carcass, Meat, and/or Its
Derivatives into the Territory of the Republic of Indonesia as amended by Regulation of
the Ministry of Agriculture Number 02/Permentan/PD.410/1/2015 Concerning
Amendment of Regulation of the Ministry of Agriculture Number
139/Permentan/PD.410/12/2014 Regarding Importation of Carcass, Meat, and/or Its
Derivatives into the Territory of the Republic of Indonesia, which repealed and replaced
Regulation of the Ministry of Agriculture Number 84/Permentan/PD.410/8/2013
Concerning Importation of Carcass, Meat, Offal and/or Their Derivatives into the
Territory of the Republic of Indonesia as amended by Regulations of the Ministry of
Agriculture 96/Permentan/PD.410/9/2013 and Regulations of the Ministry of Agriculture
110/Permentan/PD.410/9/2014, which repeals and replaces Regulation of the Minister of
Agriculture Number 50/Permentan/OT.140/9/2011 Concerning Recommendation for
Approval on Import of Carcasses, Meats, Edible Offals and/or Processed Products
Thereof to Indonesian Territory as amended by Regulation of the Minister of Agriculture
Number 63/Permentan/OT.140/5/2013 Concerning Amendment of Regulation of the
Minister of Agriculture Number 50/Permentan/OT.140/9/2011 Concerning Import
Approval Recommendation of Carcass, Meat, Offal, and/or their Derivatives into the
Territory of the Republic of Indonesia;
5. Regulation of the Minister of Trade Number 46/M-DAG/PER/8/2013 Concerning
Animal and Animal Product Import and Export Provision (“MOT Regulation 46/2013”)

as amended by Regulation of the Minister of Trade No. 57/M-DAG/PER/9/2013 and by Regulation of the Minister of Trade 17/M-DAG/PER/3/2014, which repeals and replaces Regulation of the Minister of Trade Number 22/M-DAG/PER/5/2013 Concerning Import and Export of Animals and Animal Products, which repealed and replaced Regulation of the Minister of Trade Number 24/M-DAG/PER/9/2011 Concerning Provisions on the Import and Export of Animal and Animal Product;

6. Law of the Republic of Indonesia Number 13 of Year 2010 Concerning Horticulture;
7. Law of the Republic of Indonesia Number 18/2012 Concerning Food;
8. Law of the Republic of Indonesia Number 19/2013 Concerning Protection and Empowerment of Farmers;
9. Law of the Republic of Indonesia Number 18/2009 on Animal Husbandry and Animal Health, as amended by Law of the Republic of Indonesia Number 41/2014 on Amendment of Law Number 18/2009 on Animal Husbandry and Animal Health;
10. Law of the Republic of Indonesia Number 18/2012 Concerning Food; and
11. Law of the Republic of Indonesia Number 19/2013 Concerning Protection and Empowerment of Farmers.

The legal instruments also include any amendments, related measures, or implementing measures.

Through these measures, Indonesia appears to have acted inconsistently with its obligations under the *General Agreement on Tariffs and Trade* (“GATT 1994”) and the *Agreement on Agriculture* (“Agriculture Agreement”). Specifically, as further elaborated in the U.S. panel request, the United States asserts that Indonesia’s measures appear to be inconsistent with WTO

rules, including, inter alia, provisions of the GATT 1994 and the Agriculture Agreement:

1. Article XI:1 of the GATT 1994 as these measures are “prohibitions or restrictions other than duties, taxes or other charges” instituted or maintained on the importation of products into Indonesia.
2. Article 4.2 of the Agreement on Agriculture as these measures are “of the kind which have been required to be converted into ordinary customs duties.”

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to www.regulations.gov, docket number USTR-2014-0010. If you are unable to provide submissions by www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via www.regulations.gov, enter docket number USTR-2014-0010 on the home page and click “search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Submit a Comment” (For further information on using the www.regulations.gov website, please consult the resources provided on the website by clicking on “How to Use This Site” on the left side of the home page).

The www.regulations.gov website allows users to provide comments by filling in a “Type Comments” field, or by attaching a document using an “Upload File” field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “Type Comments” field.

A person requesting that information, contained in a comment that he submitted, be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted at www.regulations.gov. The non-confidential summary will be placed in the docket and will be open to public inspection.

USTR may determine that information or advice contained in a comment submitted, other than business confidential information, is confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter --

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as “SUBMITTED IN CONFIDENCE” at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted at www.regulations.gov. The non-confidential summary will be placed in the docket and will be open to public inspection.

Pursuant to section 127(e) of the Uruguay Round Agreements Act (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding, docket number USTR-2014-0010, accessible to the public at www.regulations.gov.

The public file will include non-confidential comments received by USTR from the public regarding the dispute. If a dispute settlement panel is convened, or in the event of an appeal from such a panel, the following documents will be made available to the public at www.ustr.gov: the United States' submissions, any non-confidential submissions received from other participants in the dispute, and any non-confidential summaries of submissions received from other participants in the dispute. In the event that a dispute settlement panel is convened, or in the event of an appeal from such a panel, the report of the panel, and, if applicable, the report of the Appellate Body, will also be available on the website of the World Trade Organization at www.wto.org. Comments open to public inspection may be viewed at www.regulations.gov.

Juan Millan,

Assistant United States Trade Representative

for Monitoring and Enforcement.

